

## APPENDIX D

AO 440 (Rev. 10/95) Summons in a Civil Action

## United States District Court

CENTRAL DISTRICT DISTRICT OF CALIFORNIA

COMPUTER MOTION, INC., a Delaware corporation

Plaintiff.

v.

## SUMMONS IN A CIVIL ACTION

CASE NUMBER: C/00-4988 CBM (RLG)

INTUITIVE SURGICAL, INC., a Delaware corporation,

Defendant.

TO: (name and address of defendant)  
 CSC LAWYERS INCORPORATED SERVICE  
 2730 Gateway Oaks Drive, Suite 100  
 Sacramento, CA 95833

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Edward P. O'Connor, Esq.  
 Jan P. Heir, Esq.  
 STRADLING YOCOA CARLSON & RAUCH  
 660 Newport Center Drive, Suite 1600  
 Newport Beach, CA 92660

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

SHERRI R. CARTER

MAY 10 2000

CLERK

DATE

Robert Hougham  
 (BY) DEPUTY CLERK

1 EDWARD F. O'CONNOR, ESQ. (S.B. 123,398)  
 2 JAN P. WEIR, ESQ. (S.B. 106,652)  
 3 STRADLING YOCOA CARLSON & RAUTH  
 A Professional Corporation  
 4 660 Newport Center Drive, Suite 1600  
 Newport Beach, CA 92660-6622  
 Telephone: (949) 725-4000  
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 5 Attorneys for Plaintiff  
 6 COMPUTER MOTION, INC.

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FILED

MAY 10

CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION AT SAN FRANCISCO

9  
 10 UNITED STATES DISTRICT COURT  
 11  
 12 CENTRAL DISTRICT OF CALIFORNIA

13 COMPUTER MOTION, INC., a  
 14 Delaware corporation.

CASE NO. CV 00-4988 CBN (PLC)

15 Plaintiff.

COMPLAINT FOR PATENT  
16 INFRINGEMENT

vs.

DEMAND FOR JURY TRIAL

17 INTUITIVE SURGICAL, INC., a  
 18 Delaware corporation.

Defendant.

20 Plaintiff, Computer Motion, Inc., alleges as follows  
 21 against Defendant, Intuitive Surgical, Inc.:

JURISDICTION AND VENUE

22 1. This is an action for patent infringement arising  
 23 under 35 U.S.C. Sections 271 and 281. This Court has original  
 24 and exclusive jurisdiction over this patent infringement action  
 25 pursuant to 28 U.S.C. Sections 1331 and 1338(a).

26 2. This Court has personal jurisdiction over the  
 27 Defendant pursuant to Cal. Code Civ. Proc. section 410.10. On

1 information and belief Defendant, Intuitive Surgical, has  
 2 continuous and substantial contacts with the State of California  
 3 and has committed acts of patent infringement alleged in this  
 4 complaint in this Judicial District.

5 3. Venue is proper in this district pursuant to 28 U.S.C.  
 6 Sections 1331(b), (c), and 1400(b).

7 PARTIES

8 4. Plaintiff, Computer Motion, is and was at all times  
 9 herein mentioned, a Delaware corporation duly organized and  
 10 existing under the laws of the State of Delaware with its  
 11 principal place of business at 130-B Cremona Drive, Goleta,  
 12 California 93117, within this Judicial District and is the owner  
 13 of all rights, title and interest by virtue of an assignment of  
 14 the following United States Patents (referred to collectively as  
 15 "subject patents") which are directed to a computer assisted  
 16 robotic surgical system for use in minimally invasive surgery:

17 a. United States Patent No. 5,524,180 entitled  
 18 "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued  
 19 on June 4, 1996. (Attached as Exhibit 1 hereto.)

20 b. United States Patent No. 5,878,193 entitled  
 21 "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued  
 22 on March 2, 1999. (Attached as Exhibit 2 hereto.)

23 c. United States Patent No. 5,762,458 entitled  
 24 "METHOD AND APPARATUS FOR PERFORMING MINIMALLY INVASIVE  
 25 CARDIAC PROCEDURES" issued on June 9, 1998. (Attached as  
 26 Exhibit 3 hereto.)

27 d. United States Patent No. 6,001,108 entitled  
 28 "METHOD AND APPARATUS FOR PERFORMING MINIMALLY INVASIVE

1 CARDIAC PROCEDURES" issued on December 14, 1999. (Attached  
2 as Exhibit 2 hereto.)

3 e. United States Patent No. 5,815,640 entitled  
4 "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued  
5 on September 29, 1998. (Attached as Exhibit 3 hereto.)

6 f. United States Patent No. 5,907,664 entitled  
7 "AUTOMATED ENDOSCOPE SYSTEM FOR OPTIMAL POSITIONING" issued  
8 on May 25, 1999. (Attached as Exhibit 6 hereto.)

9 g. United States Patent No. 5,855,583 entitled  
10 "METHOD AND APPARATUS FOR PERFORMING MINIMALLY INVASIVE  
11 CARDIAC PROCEDURES" issued on January 5, 1999. (Attached  
12 as Exhibit 7 hereto.)

13 5. On information and belief, Intuitive Surgical is a  
14 Delaware corporation duly organized and existing under the laws  
15 of the State of Delaware, having a place of business at 1340 W.  
16 Middlefield Rd., Mountain View, California 9403. Intuitive  
17 Surgical is qualified to do business in the State of California,  
18 and presently does business in the State of California and does  
19 business within this Judicial District.

30 COUNT 1-PATENT INFRINGEMENT

21 6. Intuitive Surgical has made, used, offered for sale,  
22 sold and continues to make, use and offer for sale, a computer  
23 assisted robotic surgical system under the trade name "da Vinci"  
24 that infringes one or more of the claims of the subject patents.

25 7. Intuitive Surgical has and continues to actively  
26 induce infringement of the subject patents.

27 8. Intuitive Surgical offers to sell and/or sells  
28 components constituting a material part of the invention claimed

1 in the subject patents, knowing the same to be especially made  
2 or especially adapted for use in an infringement of the subject  
3 patents and not a staple article or commodity of commerce  
4 suitable for a substantial noninfringing use.

5 g. Computer Motion has been damaged by these  
6 infringements and is entitled to an award of damages to  
7 compensate it for these infringements, together with interest  
8 and costs. Further, Intuitive Surgical's infringement is likely  
9 to continue if not enjoined. This continued infringement will  
10 result in additional infringing uses by purchasers of Intuitive  
11 Surgical's infringing devices. Computer Motion will be  
12 irreparably injured by such further infringement from which  
13 Computer Motion will not have an adequate remedy at law.  
14 Accordingly, Intuitive Surgical should be enjoined from any  
15 further infringement of the subject patents.

16 10. On information and belief, Intuitive Surgical has  
17 known about one or more of the subject patents and has neither  
18 requested nor received any authorization from Computer Motion to  
19 manufacture, make, use, sell or offer to sell the patented  
20 invention, but has continued to infringe the patents in willful  
21 defiance and disregard of Computer Motion's patent rights.  
22 Intuitive Surgical has willfully infringed one or more of the  
23 subject patents and the damages awarded to Computer Motion  
24 should be trebled pursuant to 35 U.S.C. Section 284.

25 11. Intuitive Surgical's conduct gives rise to an  
26 exceptional case under 35 U.S.C. Section 285, and Computer  
27 Motion is therefore entitled to an award of its attorneys' fees.

28

1 WHEREFORE, Plaintiff, Computer Motion prays for the  
2 following relief:

3 A. A preliminary and final injunction against continued  
4 infringement of the subject patents, an award of damages,  
5 enhancement of damages and an assessment of interest, costs and  
6 Computer Motion's attorneys' fees and for all other relief to  
7 which Computer Motion is entitled; and

8 B. That Intuitive Surgical be directed to file with this  
9 court and serve on Computer Motion within thirty days after the  
10 service of an injunction, a report in writing and under oath  
11 setting forth in detail the manner and form in which Intuitive  
12 Surgical has complied with the injunction.

13

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15 Dated: 5/10, 2000

16 Respectively submitted,

17 STRADLING YOCOA CARLSON & RATH

18 By   
Edward F. O'Connor  
Jan P. Heir

19 Attorneys for Plaintiff  
20 COMPUTER MOTION, INC.

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1 **DEMAND FOR JURY TRIAL**  
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3 PURSUANT TO Rule 38 Fed.R.Civ.Proc., Plaintiff Computer  
4 MOTION, hereby demands a trial by jury.  
5  
6

7 Respectively submitted.  
8

9 STRADLING YOCOA CARLSON & RAUTH  
10

11 By   
Edward F. O'Connor  
Jan P. Weir

12   
13 Attorneys for Plaintiff  
14 COMPUTER MOTION, INC.  
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